

MINUTES HEARING OFFICER JULY 7, 2015

Minutes of the regular public hearing of the Hearing Officer, of the City of Tempe, which was held at the Council Chambers, 31 East Fifth Street, Tempe, Arizona.

Present:

Vanessa MacDonald, Hearing Officer
Steve Abrahamson, Planning & Zoning Coordinator
Brandy Zedlar, Code Inspector
Jeff Tamulevich, Code Enforcement Manager
Sherri Lesser, Senior Planner
Diane McGuire, Administrative Assistant II

Number of Interested Citizens Present: 6

Meeting convened at 5:00 PM and was called to order by Ms. MacDonald. She noted that anyone wishing to appeal a decision made by the Hearing Officer would need to file a written appeal to that decision within fourteen (14) days, by July 21, 2015 at 3:00 PM, to the Community Development Department.

Ms. MacDonald noted that the following items had been removed from today's agenda:

- **Agenda Item No. 2**
Request approval to abate public nuisance items at the **KERR PROPERTY (PL150228/CE151077)** located at 3936 South Westfall Avenue. The applicant is the City of Tempe.

CONTINUED TO JULY 21, 2015 HEARING OFFICER

- **Agenda Item No. 3**
Request approval to abate public nuisance items at the **POWER PROPERTY (PL150177/CE145883)** located at 1109 East McKellips Road. The applicant is the City of Tempe.

PROPERTY IN COMPLIANCE – ABATEMENT REQUEST WITHDRAWN

- **Agenda Item No. 4**
Request to abate public nuisance items at the **TATE PROPERTY (PL150237/CE152771)** located at 1714 East El Parque Drive. The applicant is the City of Tempe.

PROPERTY IN COMPLIANCE – ABATEMENT REQUEST WITHDRAWN

- **Agenda Item No. 5**

Request approval to abate public nuisance items at the **SOTO PROPERTY (PL150246/CE152192)** located at 1215 East Marny Road. The applicant is the City of Tempe.

PROPERTY IN COMPLIANCE – ABATEMENT REQUEST WITHDRAWN

1. Vanessa MacDonald noted that the Hearing Officer Minutes for June 17, 2015 had been reviewed and approved.

2. Request approval to abate public nuisance items at the **SANDVIG PROPERTY (PL150252/CE151098)** located at 4006 South Hanna Drive. The applicant is the City of Tempe.

The property owner was not present at today's hearing.

Brandy Zedlar, Code Inspector, requested approval of an abatement of the property located at 4006 South Hanna Drive. Notices have been sent to the owner of the property regarding deteriorated landscape, junk/debris, and an inoperable vehicle and deteriorated fence. A 180 day open abatement period is requested. Ms. Zedlar noted that no improvements have been made to the property by the owner to rectify the code violations.

Vanessa MacDonald stated that properties such as this one affect the property values of the surrounding neighborhood.

DECISION:

Ms. MacDonald approved abatement proceedings for an open abatement period of 180 days for PL150252/CE151098.

3. Request approval for a use permit to allow outdoor vending (food trucks and farmers market) for **SALT RIVER PROJECT (PL150183)** located at 1600 North Priest Drive. The applicant is Laure Molek/Salt River Project.

Sherri Lesser, Senior Planner, gave an overview of this case, noting that the applicant is applying for a use permit to allow events that offer outdoor retailing (farmers market) and food trucks during the lunch hour. These events would not be open to the public, but only to SRP employees, and will be located at the SRP corporate offices on the lawn and within the circular drive along the Priest Drive street front. The market will occur over the lunch hour, typically between 11:00 AM to 1:30 PM weekdays, a few times a month during the summer and on a weekly basis during the winter.

Laure Molek of Salt River Project was present to represent this case. She acknowledged her understanding of the assigned Conditions of Approval, and reconfirmed that these events would only be open to SRP employees, not the general public.

Ms. MacDonald noted that this request meets the criteria for a use permit:

- No significant increase in vehicular or pedestrian traffic.
- Will not create a nuisance to the surrounding area.
- The proposed use will not impact property values and is located a substantial distance from the nearest residential property.
- It is compatible with the existing surrounding structures and uses.
- The use will not generate disruptive behavior and will be a daytime, lunch time use.

DECISION:

Ms. MacDonald approved PL150183/ZUP15054 subject to the following conditions:

1. The outdoor display and vending shall not conflict with pedestrian or vehicular traffic.
2. The Use Permit is valid for the plans as submitted to and approved by the Hearing Officer. Any expansion of the outdoor display and vending area would require a new use permit.
3. If there are any complaints arising from the Use Permit that are verified by a consensus of the complaining party and the City Attorney's office, the Use Permit will be reviewed by City staff to determine the need for a public hearing to re-evaluate the appropriateness of the Use Permit, which may result in termination of the Use Permit.
4. A clear path for pedestrians must be maintained. All maneuvering areas shall meet the provisions of the Americans with Disabilities Act.
5. The location of the food truck in the circular drive shall maintain twenty (20) feet fire access clearance and shall not impede vehicular traffic, parking or sight visibility triangles.
6. All displays shall be located on private property and may not encroach into the City Right-of-Way.
7. Obtain the necessary clearances from the Maricopa Health Department for the handling and disposal of produce.
8. All display materials, including tables, stands or crates to be removed at close of business. The display area must be kept neat, clean and hazard-free during hours of operation.
9. Any signage for outdoor display and vending area to received clearance from the Community Development Department sign section. Please contact Dean Miller at 480-350-8435.
10. Each vendor shall obtain a sales tax license from the City of Tempe Tax and License Division.

4. Request approval for a use permit to allow a 60 ft. monopole (monopalm) and equipment for **VERIZON PHO STRAY CAT (PL150037)** located at 2425 East University Drive. The applicant is Steve Ciolek/Coal Creek Consulting.

Sherri Lesser, Senior Planner, gave an overview of the case. The applicant is requesting a use permit to allow a 60 ft. wireless communication facility, monopalm and equipment shelter. After discussions with surrounding property owners, the applicant relocated the monopalm to the rear of the site at the southwest corner of the building. The site is located at south of University Drive and east of the 101 Freeway. A neighborhood meeting was held on June 16, 2015 to present the revised location plan(s) to interested parties. No opposition to the proposed relocation site has been received. The site is surrounded by other commercial uses and the closest residence is approximately 100 ft. to the south behind the site.

Mr. Steve Ciolek of Coal Creek Consulting was present to represent this case. He acknowledged his understanding of the assigned Conditions of Approval. He explained that by working with planning staff the project was able to be relocated to its current location.

Ms. MacDonald noted that this request meets the criteria for a use permit:

- No significant increase in vehicular or pedestrian traffic.
- Will not create a nuisance to the surrounding area.

- There is no contribution to the deterioration of the neighborhood or downgrading of property values. The site is a substantial distance from single family residential locations.
- The proposed use will not impact property values. It is compatible with surrounding structures and uses.
- The use will not generate disruptive behavior. All equipment areas will be designed to minimize casual access or harboring.

DECISION:

Ms. MacDonald approved PL150037/ZUP15012 subject to the following conditions:

1. The use permit is valid for the plans as submitted within this application.
2. Obtain all clearance(s) from Building Safety prior to the use permit becoming effective.
3. Increase the length of the fronds on the monopalm to fully screen the antenna and radio heads; final details to be approved by staff prior to submittal for plan check.
4. The trunk of the monopalm to be textured to appear more aesthetically authentic; final details to be approved by staff prior to submittal for plan check.
5. Locate the monopalm and equipment to the rear of the site near the southeast corner of the building; final location to be approved by staff prior to submittal for plan check.
6. All equipment to be removed within 30 days of termination of use.

5. Request approval for a use permit standard to reduce the side yard setback to allow a garage for the **GULBRANSON PROPERTY (PL150247)** located at 1021 East Carver Road. The applicant is Tom Van Brockern.

Sherri Lesser, Senior Planner, gave an overview of the case. She noted that the applicant is requesting a use permit standard to reduce the side yard setback by 20% from 20 ft. to 16 ft. to allow the construction of a building addition for a double car garage. The site is located between Warner Road and Elliot Road, east of Rural Road on the west side of Lakeshore Drive. The property has a garage originally constructed with the main residence, but it is substandard for the applicant's needs. The proposed garage will be 18 ft. x 70 ft. or 1260 s.f. in area at a height of 18 ft. +/- . The structure will be added to the west side of the residence. The new garage will use the existing driveway to access the public street. A letter of support from the neighboring property to the west has been received. The garage will be utilized for private vehicles, not for commercial use.

Tom Van Brockern was present to represent this case. He acknowledged his understanding of the assigned Conditions of Approval.

Ms. MacDonald noted that this request meets the criteria for a use permit:

- No significant increase in vehicular or pedestrian traffic.
- Will not create a nuisance to the surrounding area.
- The proposed use will not impact property values or contribute to the deterioration of the neighborhood. This will be an improvement to the property which will increase the value of the home. It does not change the street front character of the home.
- It is compatible with the existing surrounding structures and uses; this project will help make the property more livable for their needs, keeping the property home owner-occupied and will foster neighborhood stability.
- The use will not generate disruptive behavior both inside and outside the premises as the proposed use is for a personal garage at a single family residence.

DECISION:

Ms. MacDonald approved PL150247 subject to the following conditions of approval:

1. This Use Permit is valid only after a Building Permit has been obtained and the required inspections have been completed and a Final Inspection has been passed. As part of the Building Permit process, on-site storm water retention may be required to be verified or accomplished on this Site.
2. The Use Permit is valid for the plans as submitted within this application. Any additions or modifications may be

submitted for review during building plan check process.

3. The materials and colors of the garage shall match or be compatible with the existing structure.

6. Request approval for a use permit to allow a wireless communication tower (monopalm) for **ST. JAMES CHURCH – T-MOBILE (PL150120)** located at 975 East Warner Road. The applicant is David Ullrich/Reliant Land Services.

Sherri Lesser, Senior Planner, presented this case. She noted that the applicant is requesting a use permit to allow a 65 ft. monopalm, wireless communication facility and equipment shelter on the northeast side of the St. James Church located at the southeast corner of Warner Road and Rural Road. A neighborhood meeting was held and three (3) members from the general public attended; there has been one (1) telephone inquiry. This case was continued from the June 17, 2015 Hearing Officer to allow the applicant to provide a landscape plan at the request of the Hearing Officer. The plan and photo simulation(s) showing three (3) additional palm trees to be added along the Warner Road street front are included in the staff summary report attachments for this hearing. Ms. Lesser noted that Condition of Approval No. 6 has been added to the previously assigned Conditions to stipulate DPR approval of updated landscape plan prior to submittal for building permits. Ms. Lesser explained that the site is surrounded by primarily residential uses with a commercial use at the northeast corner.

Mr. David Ullrich of Reliant Land Services was present to represent this case. He acknowledged his understanding of the assigned Conditions of Approval.

Ms. MacDonald thanked Mr. Ullrich for providing the landscape plan which depicts the additional palm trees that will be planted to enhance the inclusion of the monopalm. She noted that two (2) Conditions of Approval would be added to include a minimum of three (3) additional palm trees at a minimum of 45 ft. in height as well as providing an exterior finish and color of the equipment enclosure to match the adjacent building.

Mr. Ullrich indicated that he had no problems with these additional conditions which will be included as Condition of Approval Nos. 7 and 8.

Ms. MacDonald noted that this request meets the criteria for a use permit:

- There will be no significant increase in vehicular or pedestrian traffic.
- No nuisance from this use shall impact the surrounding area.
- There will be no impact to the surrounding area in deterioration or decreased property values. It is located a substantial distance from single family residential.
- It is compatible with existing surrounding structures and uses now that the three (3) palm trees have been added to the landscape plan.
- No disruptive behavior will be generated by this use. All equipment areas will be designed to minimize casual access or harboring.

DECISION:

Ms. MacDonald approved PL150120/ZUP15056 subject to the following conditions:

1. The use permit is valid for the plans as submitted within the application.
2. Obtain all clearances from the Building Safety Department prior to the use permit becoming effective.
3. The monopalm shall have a textured base (trunk) and palm fronds that extend to fully screen antenna rays and remote radio heads. Construction plans to depict the final details and shall be approved by planning staff prior to submittal for plan check.
4. Post emergency contact information for monopalm and equipment where visible from enclosure exterior.
5. All equipment to be removed within 30 days of termination of use.
6. A separate DPR approval shall be obtained for updated landscape plan for the site prior to the submittal for building permits.
7. **Provide a minimum of three (3) additional palm trees. Install at a minimum of 45 ft. in height. ADDED BY HEARING OFFICER**

8. The exterior finish and color of the equipment enclosure is to match the finish and color of the adjacent building. ADDED BY HEARING OFFICER

ANNOUNCEMENTS

- Vanessa MacDonald noted that effective with today's hearing, the Hearing Officer public hearing will start at 5:00 PM with a study session at 4:30 PM to review agenda items.

The next Hearing Officer public hearing will be held on Tuesday, July 21, 2015 at 5:00 PM.

With no further business, the public hearing adjourned at 5:30 PM.

Prepared by: Diane McGuire, Administrative Assistant II
Reviewed by:



Steve Abrahamson, Principal Planner
for Vanessa MacDonald, Hearing Officer

SA:dm